

MT LEGISLATIVE HISTORY

Chapter 180 19 71

Bill H _____ S 198 Original bill & hist. NO C

H. Committee on Township & Counties S. Committee on Jud.

Hearing Date(s) 2/4 _____ C

Hearing Date(s) _____ C

2/16 ✓ C

4/27 ✓ C

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Date Out 2/16 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE JUDICIARY COMMITTEE MEETING--January 27, 1971

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present except Senator Vainio.

Senate Bill 198 was introduced by Senator Turnage. Senator Turnage then introduced Mr. John W. McDonald of the Mountain Bell Telephone Company. The Senator said Mr. McDonald is the only witness for bill 198. Senator Turnage said Mountain Bell experienced a very large number of cable cuts in just one year and he spoke as to how this bill would prevent this. Senators Shea, Hafferman and Chairman Gilfeather then discussed this matter - considered the matter of having plats made, also having the attorney file with the City Engineer these plats so they would be in the Engineer's office and available. Chairman Gilfeather spoke concerning similar conditions along this line in Great Falls.

Senator Gilfeather asked if any further questions; there were none and he thanked Mr. McDonald for appearing. The witness, Mr. McDonald left the meeting.

Senate Bill 162 was brought before the committee and the Chairman mentioned some proposed changes in it. It was then discussed. Mr. Fred L. McOmber of the Montana Council of AFSCME, AFL-CIO, spoke in favor of this bill. Mr. Elton R. Hartz of the Montana Council of AFSCME, AFL-CIO, also spoke in favor of this bill. The Chairman asked if anyone had any further comments; there were none, and he thanked the proponents for coming. They left the meeting.

Senate Bill 228 was considered. Mr. John Connor, Staff Attorney, Legal Services, spoke about this bill, supporting it. Also supporting this bill was Mr. Jerry Richards.

Now Senate Bill 246 was considered. Mr. Charles Dell of the State Board of Institutions, spoke on this. He discussed commitments to the youth camp and explained how the children in institutions should be committed according to their abilities. Chairman Gilfeather stated that Bigfork should have an educational program up there and said further why keep the children in Pine Hills if they are intelligent enough to go to school. Senator Stephens questioned Mr. Dell as to the ages of the children and Mr. Dell replied they are from 16 to 21. There were no further questions. The Chairman thanked him for coming and he left.

The Judiciary Committee now went into session to consider the preceding bills. Senator Sheehy MOVED THAT BILL 246 BE AMENDED AS FOLLOWS: Amend Section 1, subsection (3) on page 2, line 22, after the word "and" by omitting the word "should";

SENATE JUDICIARY COMMITTEE MEETING---January 27, 1971

Minutes, continued

Page 2.

Further amend Senate Bill No. 246 on page 2 by deleting all of subsection (2), AND AS SO AMENDED, BILL 246 DO PASS.

Senate Bill 162 was now considered. The Chairman moved that Bill 162 be amended as follows:

Amend Section 2, page 1, line 21 by inserting after the word "his" the word "public";

Further amend Section 2, page 1, line 22 by inserting after the word "his" the word "public";

Further amend Senate Bill No. 162 by amending the title line 5, after the word "HIS" inserting the word "PUBLIC

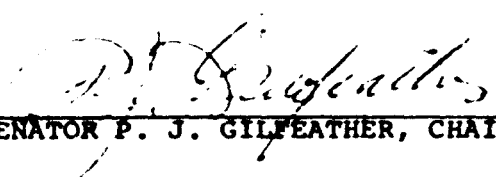
SENATOR HAFFERMAN MOVED THAT SENATE BILL 162 AS AMENDED DO PASS.

Senate Bill 228 was brought to the attention of the committee, and after some consideration SENATOR SHEEHY MOVED THAT 228 DO PASS. Senator Hafferman said he wants to be recorded as voting "NO" on this.

Senate Bill 198 was considered. The Chairman suggested that a subcommittee of Senators Shea and Moore work on this bill.

Senate Bill 189 was brought before the committee and after some discussion it was put into subcommittee, to be acted upon.

END OF MORNING MEETING OF JUDICIARY COMMITTEE.


SENATOR P. J. GILFEATHER, CHAIRMAN

APPROVED BY COMMITTEE ON
JUDICIARY

Feb. 4, 1971

SENATE BILL NO. 198

INTRODUCED BY Thompson, Boylan

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PERSONS
EXCAVATING IN ANY PUBLIC STREET, ALLEY, RIGHT-OF-WAY
DEDICATED TO PUBLIC USE OR UTILITY EASEMENT TO OBTAIN
INFORMATION AS TO EXISTENCE THEREIN OF UNDERGROUND
FACILITIES, AND PROVIDING CIVIL PENALTIES FOR FAILURE
SO TO DO."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE
OF MONTANA:

Section 1. The following definitions shall apply
to this act:

(a) "Person" shall mean and include an individual,
partnership, joint venture or corporation, and includes
the employer of an individual.

(b) "Underground facility" shall mean any item of
personal property which shall be buried or placed below
ground for use in connection with the storage or convey-
ance of water, sewage, electronic, telephonic or tele-
graphic communications, electric energy, oil, gas, or
other substances, and shall include but not be limited
to pipes, sewers, conduits, cables, valves, lines, wires,
manholes, and attachments to the aforesaid.

(c) "Excavation" shall mean and include any ditch,
trench, cut, hole or change in grade.

Section 2. No person shall make or begin any exca-
vation in any public street, alley, right-of-way dedi-
cated to the public use or utility easement without

1 first obtaining information concerning the possible
2 location of any underground facility from each and
3 every public utility, municipal corporation or other
4 person having the right to bury such underground
5 facilities within the public street, alley, right-of-
6 way or utility easement.

7 Section 3. Any person seeking information con-
8 cerning the location of any underground facility must
9 do so by request in writing. The person from whom such
10 information is sought must acknowledge in writing receipt
11 of such request and must provide such information in
12 writing no later than the end of the normal business
13 hours of the second full business day following the date
14 of receipt the request, Saturdays, Sundays and holidays
15 excluded.

16 Every public utility, municipal corporation, or
17 other person having the right to bury underground facil-
18 ities, shall file with the county clerk and recorder in
19 each county where the underground facilities are located,
20 the name, address, and telephone number of the person or
21 persons from whom the necessary information may be ob-
22 tained.

23 Section 4. If any underground facility is damaged
24 by any person who has failed to obtain information as
25 to its location as provided in section 3, then such
26 person shall be liable to the owner of the underground
27 facility for the entire cost of the repair of such
28 facility.

29 Section 5. The act of obtaining information as
30 required by this act shall not excuse any person making

1 any excavation from doing so in a careful and prudent
2 manner nor shall it excuse such person from liability
3 for any damage or injury resulting from his negligence.

4 Section 6. If information requested pursuant to
5 section 3 of this act is not provided within the time
6 specified therein, any person damaging or injuring
7 underground facilities shall not be liable for such
8 damage or injury, unless caused by his negligence.

9 Section 7. The provisions of this act shall not
10 apply to any person making repairs to an underground
11 facility or repairs to the streets or alleys themselves
12 in a situation of emergency when such repairs must be
13 made within a shorter period of time than that provided
14 for in section 3 of this act, provided, however, that
15 this exemption from obtaining information shall not
16 excuse the person making the repairs from any liability
17 for damages caused by his negligence.

18 Section 8. It is the intent of the legislative
19 assembly that if a part of this act is invalid, all
20 valid parts that are severable from the invalid part
21 remain in effect. If a part of this act is invalid in
22 one or more of its applications, the part remains in
23 effect in all valid applications that are severable
24 from the invalid applications.

SENATE JUDICIARY BILLS

AS AMENDED, DO PASS -- 23 SENATE BILLS

- SB-198 --- AS AMENDED DO PASS - Requiring persons excavating in any public street to obtain information as to existence of underground facilities
- SB-61 ---- AS AMENDED DO PASS - Providing for dismissal of actions
- SB-294 --- AS AMENDED DO PASS - To shorten the period for filing mechanics' liens by providing for filing of notice of completion
- SB-286 --- AS AMENDED DO PASS - Relating to succession to and distribution of estates
- SB-332 --- AS AMENDED DO PASS - To provide that within 6 months after forfeiture of bail, if the defendant appears, bail must be discharged
- SB-246 --- AS AMENDED DO PASS - Providing for temporary commitment to Department of Institutions of a child of 16 or over to evaluate suitability for commitment to a youth forest camp
- SB-92 --- AS AMENDED DO PASS - Establishing that the use of whole blood and blood derivatives for injecting or transfusing into the human body, is a service and not a sale
- SB-24 --- AS AMENDED DO PASS - Relating to possession of explosives with intent to injure persons or property
- SB-211 --- AS AMENDED DO PASS - To establish a statute of limitations for amending inheritance tax report
- SB-225 --- AS AMENDED DO PASS - Power of Regents to appoint university security departments
- SB-331 --- AS AMENDED DO PASS - To define third parties against whom injured workmen may prosecute cause of action to include prime contractors and owners who have not become liable for workmen's compensation benefits

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 199

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PERSONS EXCAVATING IN ANY PUBLIC STREET, ALLEY, RIGHT OF WAY DEDICATED TO PUBLIC USE OR UTILITY EASEMENT TO OBTAIN INFORMATION AS TO EXISTENCE THEREIN OF UNDERGROUND FACILITIES, AND PROVIDING CIVIL AND CRIMINAL PENALTIES FOR FAILURE SO TO DO."

Respectfully report as follows: That SENATE Bill No. 199

Be amended as follows.

Amend the title of the introduced bill, page 1, line 8, following the word "CIVIL" by striking the words "AND CRIMINAL";

Further amend Section 3, page 2, line 10, following the word "acknowledge" by inserting the words "in writing";

Further amend Section 3, page 2, line 11, following the word "information" by inserting the words "in writing".

Further amend Section 3, page 2, line 13, following the word "of" by inserting the word "receipt":

Further amend Section 3, following line 14, by inserting the following new paragraph:

~~dd/ddd/~~ "Every public utility, municipal corporation, or other person having the right to bury underground facilities, shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained."

Further amend Section 8, page 3, line 11, by striking Section 8 in its entirety and by renumbering Section 9 to be Section 8.

AND AS SO AMENDED, DO PASS

Townsships & Counties COMMITTEE

42nd Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action
SB 81 Ziffhard	To authorize the County Treas to pay disbursements from certain funds collected on behalf of donor names and proceeds for OS contract.	1/12/71	2/13 2/16/71		2/10/71	Be Concurred for
SB 63 Drake	Removing exemption with bill to ensure the public dedication requirements and to determine whether the right to accept of that dedication in their plans for using such.	1/23/71	1/30/71		1/31/71	Be Concurred in
SB 177 M. Coleman	To provide for the training of residents, requirements for police officers, deputy sheriffs or marshalls.	1/27/71	2/13 2/16/71		2/16/71	Be Concurred for
SB 77 Bennett	Removing before disbursements to the following a section of the law relating to the disbursement of money to the legal services of such.	1/29/71	2/18		2/18/71	Be Concurred for
SB 245 Lowe	Prohibition upon receipt of money that a County can spend upon any public works and construction project.	2/2/71	2/13 2/16/71	Refer to referred 2/15/71	2/15/71	Be Concurred for
SB 198 Turnage	Requiring public education and any public school, other public works dedicated to public use to obtain information of persons of underground activities.	2/9/71	2/16/71		2/16/71	Be Concurred for
SB 223 Decker	To repeal the expiration date of the Southwestern Cooperative Commission.	2/6/71	2/16/71		2/16/71	Be Concurred for

**February 16, 1971
Proceedings of the
TOWNSHIPS AND COUNTIES COMMITTEE**

Chairman Arnold Tulkenstern called the meeting to order at 10:30 a.m. The secretary called the roll: eight members present; Representatives Perry, Nichols and Selstad absent.

SENATE JOINT RESOLUTION NO. 13: Senator Jim Moore, District 12, Chief Sponsor. This resolution proposes to set up planning districts around population areas, requests Governor to leave the South-Central Montana Development Federation intact. It has been proposed that Wheatland, Golden Valley and Musselshell counties be removed from this South-Central Federation and placed in the Lewistown district. Proponents of the resolution feel that geographic barriers make this impractical.

Proponents: Ralph Gildroy, Pres. South-Central Montana Development Federation submitted a prepared statement which follows this copy of the minutes. Representative Herschel Robbins, District 12A supported the resolution as did Rep. Jim Burnett, District 13.

SENATE BILL NO. 81: Senator Hank Hibbard, District 21, Chief Sponsor, said this is a housekeeping measure that pertains to irrigation districts and would make it legal for irrigation districts to invest their own funds.

Proponent Bob Ellis, Helena Valley Irrigation District, supported the bill.

SENATE BILL NO. 177: Senator George McCallum, District 27, Chief Sponsor, said the bill was drafted by the Police & Protective Association. It would change the residency requirements and help to upgrade law enforcement. Senator Turnage appeared in support.

There were no proponents or opponents.

SENATE BILL NO. 198: Senator Gene Turnage, District 28, Chief Sponsor, introduced this legislation at the request of the telephone utilities. The bill has been amended by the Senate Judiciary Committee. Proposes to have location of underground utilities on file so contractors may find out in advance of excavation where they are in order not to disrupt service.

PROPOSER: Jack Marlow, Sec., Montana Contractors Assoc. Mr. Marlow said the contractors have a slogan "Call before you dig". They support this measure.

SENATE BILL 223: Senator G. W. Deschamp, District 26, Chief Sponsor, stated this is an amendment to existing codes to extent the expiration date of Interlocal Cooperative Commissions.

SENATE BILL NO. 245: Senator Wm. R. Lowe, District 9, Chief Sponsor, stated this bill provides that counties must not use devious means to keep from putting contract work up for competitive

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bid letting. This is not intended to prevent counties from doing their own work, just to keep them from breaking work up into such small segments that they can circumvent the provision for competitive bidding.

EXECUTIVE SESSION:

SENATE JOINT RESOLUTION NO. 13: Rep. Kendal moved the bill Be Concurred In. Motion carried - BE CONCURRED IN.

SENATE BILL NO. 81: Rep. Worden moved Be Concurred In. Rep. Sverdsten seconded the motion. Motion carried - BE CONCURRED IN.

SENATE BILL NO. 177: Rep. Harper moved Be Concurred In, seconded by Rep. Worden. Motion carried - BE CONCURRED IN

SENATE BILL NO. 198: Rep. Worden moved Be Concurred In, seconded by Rep. Lombardi. Motion carried - BE CONCURRED IN.

SENATE BILL NO. 223: Rep. Hodges moved Be Concurred In. Motion carried - BE CONCURRED IN.

SENATE BILL NO. 245: Rep. Hodges moved Be Not Concurred In. Rep. Mehrens moved to table for the day, to be brought out at the next meeting. Motion carried - TABLED FOR THE DAY.

The meeting adjourned at 11:35 a.m.


ARNOLD FALKENSTERN, CHAIRMAN


Marie Hensleigh, Secretary

in the vehicle, to which it refers or shall be carried by the person driving or in control of such vehicle, who shall display the same upon demand of a police officer or any officer or employee of the registrar of motor vehicles or the highway department.

The term "motor vehicle" includes automobile, truck, motorcycle-type vehicle, and semitrailer, trailer and trailer-house. "Motor vehicle" defined.

Any trailer, semitrailer or trailer-house which does not have a manufacturer's or other identifying number thereon shall be assigned an identification number by the registrar upon registration of such motor vehicle. The owner or other person lawfully in possession of such motor vehicle shall stamp such number so assigned by the registrar upon the principal right frame member of said motor vehicle near the front end thereof where it may be clearly and readily seen, and said stamping shall be promptly accomplished after notice of the assigned number by the registrar. The registrar may withhold registration until satisfactory proof by affidavit, of such stamping is filed with him. Identification number.
Stamping on vehicle.
Affidavit.

Any person violating this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding twenty-five dollars (\$25.00)." Penalties.

Approved March 3, 1971

CHAPTER NO. 180

An Act Requiring Persons Excavating in any Public Street, Alley, Right-of-Way Dedicated to Public Use or Utility Easement to Obtain Information as to Existence Therein of Underground Facilities, and Providing Civil Penalties for Failure So to Do.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following definitions shall apply to this act: Definitions.

(a) "Person" shall mean and include an individual, partnership, joint venture or corporation, and includes the employer of an individual. "Person."

"Underground facility."

(b) "Underground facility" shall mean any item of personal property which shall be buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas, or other substances, and shall include but not be limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, and attachments to the aforesaid.

"Excavation."

(c) "Excavation" shall mean and include any ditch, trench, cut, hole or change in grade.

Duty to check all facilities prior to excavation.

Section 2. No person shall make or begin any excavation in any public street, alley, right-of-way dedicated to the public use or utility easement without first obtaining information concerning the possible location of any underground facility from each and every public utility, municipal corporation or other person having the right to bury such underground facilities within the public street, alley, right-of-way or utility easement.

Written request.

Section 3. Any person seeking information concerning the location of any underground facility must do so by request in writing. The person from whom such information is sought must acknowledge in writing receipt of such request and must provide such information in writing no later than the end of the normal business hours of the second full business day following the date of receipt the request, Saturdays, Sundays and holidays excluded.

Receipt and information.

Duty to file name of information source with county clerk.

Every public utility, municipal corporation, or other person having the right to bury underground facilities, shall file with the county clerk and recorder in each county where the underground facilities are located, the name, address, and telephone number of the person or persons from whom the necessary information may be obtained.

Liability for damage.

Section 4. If any underground facility is damaged by any person who has failed to obtain information as to its location as provided in section 3, then such person shall be liable to the owner of the underground facility for the entire cost of the repair of such facility.

Liability for negligence.

Section 5. The act of obtaining information as required by this act shall not excuse any person making any excavation from doing so in a careful and prudent manner nor shall it excuse such person from liability for any damage or injury resulting from his negligence.

Section 6. If information requested pursuant to section 3 of this act is not provided within the time specified therein, any person damaging or injuring underground facilities shall not be liable for such damage or injury, unless caused by his negligence.

Effect of failure to provide information.

Section 7. The provisions of this act shall not apply to any person making repairs to an underground facility or repairs to the streets or alleys themselves in a situation of emergency when such repairs must be made within a shorter period of time than that provided for in section 3 of this act, provided, however, that this exemption from obtaining information shall not excuse the person making the repairs from any liability for damages caused by his negligence.

Exception.

Emergency repairs.

Section 8. Architects and engineers designing or requiring excavating in or adjacent to any public street, alley or right-of-way dedicated to public use or utility easement shall obtain information as to underground facilities and then make said information a part of the plan by which the contractors operate. Nothing in this section shall excuse any person from the obligation imposed by section 2 of this act.

Duties of architects and engineers.

Section 9. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Severability clause.

Approved March 3, 1971.

CHAPTER NO. 181

An Act Relating to White Canes for the Blind; Repealing Sections 32-1143, 32-1144, 32-1145, R.C.M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as the "White Cane Act."

"White cane act."

Section 2. It is the policy of the state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the

Policy of state.